

PR#9833

GUNTER, TEENA

10/29/2008

1

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,

Plaintiff,

vs.

CASE NO. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,

Defendants.

VIDEOTAPED DEPOSITION OF TEENA GUNTER
TAKEN ON BEHALF OF THE DEFENDANTS
ON OCTOBER 29, 2008, BEGINNING AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

APPEARANCES:

On behalf of the PLAINTIFF:

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(APPEARANCES CONTINUED ON PAGE 2)

REPORTED BY: Laura L. Robertson, CSR, RPR

EXHIBIT

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PR#9833

GUNTER, TEENA

10/29/2008

101

1 **A.** Yes.

2 **Q.** Okay. Is that something that you brought
3 with you last time?

4 **A.** No.

5 **Q.** Okay. Let's mark it As Exhibit 23 to your
6 deposition. Do we have some stickers? Okay. This
7 spreadsheet that you have would identify violations of
8 animal waste management plans; is that correct?

9 (Defendant's Exhibit 23 marked for
10 identification)

11 **A.** It would identify violations noted on an
12 inspection form.

13 **Q.** Okay. Is this printout limited to the
14 Illinois River Watershed or is this everything in
15 Oklahoma?

16 **A.** This should be limited to -- I asked them to
17 limit it to the Illinois River Watershed. Obviously
18 there is still a lot of Delaware, but my best
19 understanding is it was limited to that.

20 Now, we have problems where we can run some
21 reports that split it into watersheds and we have some
22 reports that don't. And so this one I'm not sure if
23 it would do it or not. We just -- they had to make
24 due. My database guy did.

25 **Q.** Do you know if this database has been

PR#9833

GUNTER, TEENA

10/29/2008

102

1 produced to the defendants before?

2 A. Yes. Yes. At least one or two updates of
3 it as well.

4 Q. Okay. Was it -- was the entire database
5 produced?

6 A. As an Access database, yes, it was. Well,
7 it was the entire database related to these four
8 counties. We didn't produce the entire database,
9 because it was limited to those areas.

10 Q. Okay. Can you go through and just identify,
11 if you can, a violation of an animal waste management
12 plan that's noted here in --

13 A. Just another note about these, is these tend
14 to be technical violations, so very often what I have
15 found is that when it relates to the AWMP, for
16 example, I'm looking at the first page of this, Vernon
17 and Faye Bailey, Adair County.

18 Stilwell is their location, their criteria,
19 and this is just the way the database was created. We
20 call it a criteria type and then the actual criteria.

21 The criteria type is what subcategory it
22 would fall under, education, soil, litter, education,
23 miscellaneous, AWMP.

24 So that's the criteria, then it will go
25 forward -- the criteria type and then it goes forward

PR#9833

GUNTER, TEENA

10/29/2008

103

1 into this.

2 I looked through this and it was -- it
3 appeared to me that what they put on this was the
4 technical violation, need an AWMP, or on their '05
5 renewal they need to complete the number of houses.
6 It is that sort of thing.

7 Q. They haven't completed the forms that they
8 needed to complete?

9 A. In some cases, or some cases there their
10 AWMP issue is that it's old and it is out of date and
11 they didn't bother to apply for a new one yet. There
12 is soil sampling under the soil criteria or litter
13 criteria, they don't have a current litter test or
14 litter current soil test.

15 Q. The litter, entry for litter, what types of
16 things do those entries cover?

17 A. This one for example, and this is the same
18 one over and over, again because she has five. But
19 this is for Diane Longshore, and hers is '03
20 inspection obtain a current litter test. And that's
21 what is listed under litter in that case.

22 So here is one that's soil/litter. Well, it
23 is soil and litter test, typically that's what you see
24 whenever it is listed as litter.

25 Q. Is there anything in this database that

PR#9833

GUNTER, TEENA

10/29/2008

104

1 would identify whether any action was taken against
2 this poultry operation for a violation of any of these
3 animal waste management plan requirements?

4 **A.** If -- make sure I understand what you're
5 asking. Maybe repeat and make sure I'm clear.

6 **Q.** If there was a violation of an animal waste
7 management plan and it resulted in some kind of
8 administrative action by ODAFF, would that be recorded
9 in this database or would that be in this complaint
10 database that we discussed before?

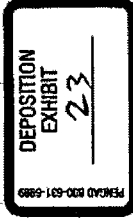
11 **A.** It would be more likely contained in a
12 complaint type database. This database is mainly a
13 tool for us to track the facility cases and the
14 problems that might be associated with that facility
15 on the annual inspection.

16 But I don't recall it actually having -- let
17 me think.

18 **Q.** I mean, is there anything in there that's
19 used by ODAFF as an enforcement tool?

20 **A.** It would be referred to, the office of
21 general counsel, if, for example, they didn't get
22 their education within the time period they are
23 supposed to, and they received their letter of
24 warning, they didn't get their education, then it
25 would be referred to us.

County	LASTORFAC	FIRST	CITY	Criteria Type	Criteria	TargetDate	ComplianceDate
ADAIR	Alewine	Cliff & Helen	Westville	Education	03 Insp - 4 hours of update education is needed. -have 3 hrs on 6/19/03, still need 1 hr. 9/1/04-4 hours short, referred to Legal.-9/21/04 rcvd CAO & NOR (05-21-DLS) See new entry.	12/30/02	3/4/03
ADAIR	Alewine	Cliff & Helen	Westville	Education	03 Insp - 4 hours of update education is needed. -have 3 hrs on 6/19/03, still need 1 hr. 9/1/04-4 hours short, referred to Legal.-9/21/04 rcvd CAO & NOR (05-21-DLS) See new entry.	12/30/02	3/4/03
ADAIR	Alewine	Cliff & Helen	Westville	Soil	Need soil test.	12/30/02	3/4/03
ADAIR	Alewine	Cliff & Helen	Westville	Soil	Need soil test.	12/30/02	3/4/03
ADAIR	Alewine	Cliff & Helen	Westville	Litter	03 Insp - Needs current litter test.	12/31/03	6/17/03
ADAIR	Alewine	Cliff & Helen	Westville	Litter	03 Insp - Needs current litter test.	12/31/03	6/17/03
ADAIR	Alewine	Cliff & Helen	Westville	Education	05 Insp- Helen needs to obtain 9 hours of initial edu and 3 update (for FY04).	6/30/05	6/13/05
ADAIR	Alewine	Cliff & Helen	Westville	Education	05 Insp- Helen needs to obtain 9 hours of initial edu and 3 update (for FY04).	6/30/05	6/13/05
ADAIR	Asbill	Dwain & Kim	Watts	Education	Need 9 hours of original education.	6/30/04	5/19/04
ADAIR	Asbill	Dwain & Kim	Watts	Education	05 Insp- Need 3 hours of update education for FY04-05.	6/30/05	5/5/05
ADAIR	Asbill	Dwain & Kim	Watts	Misc	08 Renewal registration received showing a new integrator. Requested new integrator form completed. Holding 2008 license until form is received.	12/31/07	12/27/07
ADAIR	Bailey	Vernon & Faye	Stillwell	AWMP App	Need updated AWMP or proof one has been requested. Submitted NRCS letter advising of request.	3/30/04	2/25/04



County	LASTORFAC	FIRST	CITY	Criteria Type	Criteria	TargetDate	ComplianceDate
ADAIR	Choate	Darren	Westville	Misc	08 Renewal- # of birds housed in 2006 left blank.	12/31/07	12/31/07
ADAIR	Collins	Roger	Westville	AWMP App	05 Insp- Need AWMP six year revision or proof of application.	5/1/05	2/14/05
ADAIR	Doyle	Ernest	Stilwell	AWMP App	Assigned to R.C Brinlee to compose AWMP 4/21/06.		
ADAIR	Doyle	Ernest	Stilwell	AWMP App	Assigned to R.C Brinlee to compose AWMP 4/21/06.		
ADAIR	Doyle	Ernest	Stilwell	Soil/Litter	Need soil & litter tests,	12/30/02	2/1/01
ADAIR	Doyle	Ernest	Stilwell	Soil/Litter	Need soil & litter tests,	12/30/02	2/1/01
ADAIR	Doyle	Ernest	Stilwell	Poultry Insp	Obtain a catastrophic death loss procedure. Has been requested per 1/29/02 email - 1/3/03 - per Insp.		4/7/05
ADAIR	Doyle	Ernest	Stilwell	AWMP App	05 Insp- Need AWMP six year revision or proof of application.	5/1/05	4/7/05
ADAIR	Doyle	Ernest	Stilwell	AWMP App	05 Insp- Need AWMP six year revision or proof of application.	5/1/05	4/7/05
ADAIR	Doyle	Ernest	Stilwell	Poultry Insp	Obtain a catastrophic death loss procedure. Has been requested per 1/29/02 email - 1/3/03 - per Insp.		4/7/05
ADAIR	Doyle	Ernest	Stilwell	Education	05 Insp- Need 1 hour of update education for FY04-05.	6/30/05	6/7/05
ADAIR	Doyle	Ernest	Stilwell	Education	05 Insp- Need 1 hour of update education for FY04-05.	6/30/05	6/7/05

County	LASTORFAC	FIRST	CITY	Criteria Type	Criteria	TargetDate	ComplianceDate
ADAIR	Longshore	Ricky	Stilwell	Misc	Returned 08 renewal form for # of birds housed during 2006.	11/27/07	11/27/07
ADAIR	Longshore	Ricky	Stilwell	Misc	Returned 08 renewal form for # of birds housed during 2006.	11/27/07	11/27/07
ADAIR	Longshore	Dianne	Stilwell	Misc	Registration returned for failure to complete total number of birds houses for 2006.	12/31/07	12/18/07
ADAIR	Longshore	Dianne	Stilwell	Misc	Registration returned for failure to complete total number of birds houses for 2006.	12/31/07	12/18/07
ADAIR	Longshore	Dianne	Stilwell	Misc	Registration returned for failure to complete total number of birds houses for 2006.	12/31/07	12/18/07
ADAIR	Longshore	Dianne	Stilwell	Misc	Registration returned for failure to complete total number of birds houses for 2006.	12/31/07	12/18/07
ADAIR	Longshore	Dianne	Stilwell	Misc	Registration returned for failure to complete total number of birds houses for 2006.	12/31/07	12/18/07
ADAIR	Lor	Bee	Westville	Misc	09 PFO renewal returned for # birds housed for 2007.	11/21/08	
ADAIR	Lor #2	Bee	Westville	Misc	09 PFO renewal returned for #birds housed in 2007 and type of birds	11/21/08	
ADAIR	Lor #2	Bee	Westville	AWMP App	Memo to RC on 6/17/08 to prepare AWMP.		
ADAIR	Masters	Sandra	Westville	AWMP App	Update AWMP to include current litter & soil test	3/1/02	
ADAIR	Masters	Clyde & Helen	Westville	Soil	Can not apply any additional poultry waste on field # 1		

County	LASTORFAC	FIRST	CITY	Criteria Type	Criteria	TargetDate	ComplianceDate
ADAIR	Masters	Clyde & Helen	Westville	Soil	Can not apply any additional poultry waste on field # 1		
ADAIR	Masters	Sandra	Westville	Litter			
ADAIR	Masters	Clyde & Helen	Westville	Litter	03 Insp - A current litter test is needed.	12/30/03	3/31/04
ADAIR	Masters	Clyde & Helen	Westville	Litter	A current litter test is needed. 2nd request.	6/30/04	3/31/04
ADAIR	Masters	Clyde & Helen	Westville	Litter	03 Insp - A current litter test is needed.	12/30/03	3/31/04
ADAIR	Masters	Clyde & Helen	Westville	Litter	A current litter test is needed. 2nd request.	6/30/04	3/31/04
ADAIR	Masters	Clyde & Helen	Westville	Poultry Insp	05 renewal- over the allowable 10% expansion.	12/31/04	12/29/04
ADAIR	Masters	Clyde & Helen	Westville	Poultry Insp	05 renewal- over the allowable 10% expansion.	12/31/04	12/29/04
ADAIR	Mogg	Dennis	Stilwell	AWMP App	Failed to re-register for 2003. Registration was received timely. No violation occurred. pa	1/20/03	12/27/02
ADAIR	Mogg	Dennis	Stilwell	AWMP App	Failed to re-register for 2003. Registration was received timely. No violation occurred. pa	1/20/03	12/27/02
ADAIR	Mogg	Dennis	Stilwell	AWMP App	04 Insp - Need new AWMP - Rcvd copy of letter from NRCS regarding request for updated AWMP.	1/31/04	1/21/04
ADAIR	Mogg	Dennis	Stilwell	AWMP App	04 Insp - Need new AWMP - Rcvd copy of letter from NRCS regarding request for updated AWMP.	1/31/04	1/21/04